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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,739	03/04/2002	Yuichi Matsumoto	03500.016250.	2224
5514 7590 06/12/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
PENG, FRED H				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
06/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/086,739

## Applicant(s)

MATSUMOTO ET AL.

## Examiner

FRED PENG

## Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04/07/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 19, 21, 30 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 19, 21, 30 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/07/2008 has been entered.

**DETAILED ACTION**

***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3, 19, 21, 30 and 33-35 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1, 3, 19, 21, 30 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (US 2006/0136965) in view of Alexander et al (US 6,177,931).

Regarding Claims 1, 19 and 30, Ellis discloses a data receiving apparatus connected with a recording apparatus (FIG.3, FIG.4) with corresponding method and a storage medium (FIG.3, -44) storing a program for recording a television broadcast program, and booking to record the program (Para 102 lines 1-3), said data receiving apparatus comprising:

a receiving unit adapted to receive a television broadcast program (FIG.3, -28);

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an input unit adapted to input booking information about a program (FIG. 3, -40), recording of which is booked by a user instruction in said recording apparatus (Para 102); and

a profile generation unit adapted to generate a user profile of said data receiving apparatus and the recording apparatus on the basis of a view history of a broadcast program received by said receiving unit (Para 107 lines 1-9);

a profile updating unit adapted to update said user profile on the basis of the booking information input by said input unit (Para 107 lines 9-11);

a searching unit adapted to search for a desired program in the television broadcast program received by said receiving unit based on the user profile updated by said profile updating unit (Para 77 lines 5-12).

Ellis is silent about updating the user profile if booking for recording is not canceled in said recording apparatus, and not updating the user profile when the booking is canceled in said recording apparatus.

In an analogous art, Alexander discloses a profile program accumulates the number of times that the viewer actually recorded the programs (Col 29 lines 37-43).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Ellis' system to include tracking a user to determine if users actually record a program or not, as taught by Alexander so more accurate viewer profile data can be maintained.

Regarding Claims 3 and 21, the added claimed feature "said profile generating step updates the user profile based on the booking cancellation information in accordance with the recording of the booked program being finished" as has been analyzed and described as in Claims 1, 19 and 30.

Regarding Claim 33, Ellis discloses providing a cancellation option to notify the system to cancel the recording or not (Para 135 lines 7-9).

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Regarding Claim 34, Ellis and Alexander both are silent about updating user profile with a weight dependent upon a duration of recording corresponding to the booking information.

Length of a program viewed by a user can be a weighting factor for a user preference is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include length of recording as a weighting factor for a user preference to obtain broader data statistics collection.

Regarding Claim 35, Alexander discloses a profile program that only tracks number of times that the viewer actually recorded the programs and hence is independent from the duration of the recording.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Vivek Srivastava  
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